

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION
RULES I through IV regarding mortgage	)	
lender surety bond, branch office	)	
licensing, supervision of branch offices	)	
and loan officers, and responsibility for	)	
acts of agents	)	

TO: All Concerned Persons

1. On May 8, 2008, the Department of Administration, Division of Banking and Financial Institutions, published MAR Notice No. 2-59-401 regarding the public hearing on the proposed adoption of the above-stated rules at page 862 of the 2008 Montana Administrative Register, issue number 9.

2. The department has thoroughly considered the comments received. A summary of the comments received and the department's responses are as follows:

Comment #1: One person commented that he would like to see the effective date of the rules be at least 90 days from now.

Response #1: The rules will be effective on October 1, 2008, which is the effective date of the statutes they implement.

Comment #2: One person commented that the rules should not be made to apply retroactively.

Response #2: The rules will apply prospectively only.

3. The department has adopted New Rule I (2.59.1801), New Rule II (2.59.1802), New Rule III (2.59.1803), and New Rule IV (2.59.1804) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (2.59.1801) MORTGAGE LENDER SURETY BOND (1) Every applicant for a mortgage lender license shall file with the department a bond as specified in (3) during the period of licensure. Each surety bond shall be subject to the filing of a claim for acts during the term of the ~~bond for a period of five years~~ license and for five years after the expiration of the license.

(2) and (3) remain as proposed.

AUTH: 32-10-303, 32-10-502, MCA

IMP: 32-10-203, ~~32-10-207~~, 32-10-208, ~~32-10-209~~, 32-10-303, ~~32-10-502~~,  
MCA

NEW RULE II (2.59.1802) BRANCH OFFICE LICENSING (1) In the event a mortgage lender desires to operate a branch office as defined in 32-10-103, MCA, the applicant or licensee must submit an application as required by 32-10-203, MCA, and the licensing fee specified in 32-10-202, MCA, and provide the following information on the original license application form, or upon an amendment to the original application, at least 30 days before the branch commences operation:

(a) remains as proposed.

(b) the information required pursuant to ~~this rule~~ ARM 2.59.1803 regarding the branch supervisor who will supervise the activities of loan officers employed by the branch to ensure compliance with all applicable rules and regulations; and

(c) remains as proposed.

AUTH: 32-10-203, 32-10-502, MCA

IMP: ~~32-10-103, 32-10-202, 32-10-203, 32-10-207, 32-10-208, 32-10-301, 32-10-401, 32-10-402, 32-10-403, 32-10-404, 32-10-405, 32-10-406, 32-10-501, 32-10-512, MCA~~

NEW RULE III (2.59.1803) SUPERVISION OF OFFICES AND LOAN OFFICERS (1) through (6) remain as proposed.

AUTH: ~~32-10-207, 32-10-502, MCA~~

IMP: ~~32-10-103, 32-10-202, 32-10-203, 32-10-207, 32-10-208, 32-10-301, 32-10-401, 32-10-402, 32-10-403, 32-10-404, 32-10-405, 32-10-406, 32-10-501, 32-10-512, MCA~~

NEW RULE IV (2.59.1804) RESPONSIBILITY FOR ACTS OF AGENTS

(1) remains as proposed.

AUTH: ~~32-10-207, 32-10-502, MCA~~

IMP: ~~32-10-103, 32-10-207, 32-10-208, 32-10-401, 32-10-402, 32-10-403, 32-10-404, 32-10-406, 32-10-512, 32-10-501, MCA~~

4. The department has amended ARM 2.59.1801 through 2.59.1804 based on the request of the Legislative Services Division. The changes deleting the statutes that provide the authority to implement these rules were recommended because the Legislative Services Division stated that the references were unnecessary. ARM 2.59.1801(1) was amended to clarify the duration of time in which claims may be made on the surety bond. This amendment sets forth that this duration of time be based upon license status of the mortgage lender. ARM 2.59.1802(1) was amended to clarify that this rule does apply to mortgage lender applicants as well as licensees. In addition, this section was amended to clarify that the submission of the branch office application is required by statute. ARM 2.59.1802(1)(b) was amended to correct the reference within this rule to ARM 2.59.1803.

5. The new rules will be effective October 1, 2008.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State July 21, 2008.